

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1268

S.P. 448

In Senate, March 15, 2005

**An Act To Amend the Law on Junkyards, Automobile Graveyards
and Automobile Recycling Businesses**

Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.
Reference to the Committee on Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator COWGER of Kennebec.
Cosponsored by Representative: TWOMEY of Biddeford.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 30-A MRSA §3752, sub-§1, ¶A,** as repealed and replaced
by PL 2003, c. 312, §3, is amended to read:

6 A. "Automobile graveyard" does not include:

8 (1) An area used for temporary storage of vehicles or
10 vehicle parts by an establishment or place of business
12 that is primarily engaged in doing vehicle repair work
14 to make repairs to render a motor vehicle serviceable.
In order for a vehicle's storage to be considered
temporary, it must be removed from the site within 180
calendar days of its receipt;

16 ~~(2) An area used by an automobile hobbyist to store,
18 organise, restore or display antique autos, antique
20 motorcycles, classic vehicles, horseless carriages,
22 reconstructed vehicles, street rods or parts of these
24 vehicles as these vehicles are defined in Title 29-A,
26 section 101 as long as the hobbyist's activities comply
28 with all applicable federal and state statutes and
rules and municipal ordinances, other than ordinances
that are more restrictive than this subsection
regarding the storage of vehicles or vehicle parts that
are collected by a hobbyist. For the purposes of this
subparagraph, an automobile hobbyist is a person who is
not primarily engaged in the business of selling any of
these vehicles or parts from these vehicles;~~

30 (3) An area used for the parking or storage of
32 vehicles, vehicle parts or equipment intended for use
34 by a municipality, quasi-municipal entity or state or
federal agency;

36 (4) An area used for the storage of operational farm
38 tractors and related farm equipment, log skidders,
logging tractors or other vehicles exempted from
40 registration under Title 29-A, chapter 5;

42 (5) An area used for the parking or storage of
44 vehicles or equipment being offered for sale by a
dealer, equipment dealer, trailer dealer or vehicle
auction business as defined in Title 29-A, section 851;

46 (6) An area used for the storage of vehicles by an
48 establishment or place of business that is primarily
engaged in business as a new vehicle dealer as defined
in Title 29-A, section 851;

2 (7) An area used for temporary storage of vehicles by
4 an establishment or place of business that is primarily
6 engaged in business as an insurance salvage pool. In
8 order for a vehicle's storage to be considered
temporary under this subparagraph, the vehicle must be
removed from the site within 180 days of receipt of
title by the business; or

10 (8) An area used for the parking or storage of
12 operational commercial motor vehicles, special
14 equipment or special mobile equipment as defined in
16 Title 29-A, section 101 that is temporarily out of
18 service but is expected to be used by the vehicle or
equipment owner or by an operator designated by the
owner. This subsection does not exempt an area used
for the parking or storage of equipment or vehicles
that are not operational while stored or parked in the
area.

20 **Sec. 2. 30-A MRSA §3754**, as amended by PL 2003, c. 312, §8,
22 is further amended to read:

24 **§3754. Hearings**

26 Municipal officers or county commissioners, as provided for
28 in section 3753, shall hold a public hearing before granting a
permit to establish a new automobile graveyard, automobile
30 recycling business or junkyard and may hold public hearings
annually regarding the relicensing of these facilities.
32 Municipal officers or county commissioners shall require an
applicant to provide proof of mailing the notice of the
application to all abutting property owners ~~of an application~~.
34 Municipal officers or county commissioners shall also post a
notice of the hearing at least 7 and not more than 14 days before
36 the hearing in at least 2 public places in the municipality or
unorganized territory and publish a notice in one newspaper
38 having general circulation in the municipality or unorganized
territory in which the automobile graveyard, automobile recycling
40 business or junkyard is to be located. The municipal officers or
county commissioners shall give written or electronic notice of
42 the application to establish a new automobile graveyard or
automobile recycling business to the automobile dealer licensing
44 section of the Department of the Secretary of State, Bureau of
Motor Vehicles by mailing a copy of the application at least 7
46 and not more than 14- 30 days before the hearing. The municipal
officers or county commissioners shall give written notice of the
48 application to a the public water supplier if the application is
for any an automobile graveyard, automobile recycling business or
50 junkyard located within its the supplier's source water supply

2 area. The notice may be given by mailing a copy of the
3 application at least 7 and not more than 14 days before the
4 hearing.

6 **Sec. 3. 30-A MRSA §3754-A, sub-§4**, as enacted by PL 2003, c.
7 312, §9, is amended to read:

8 **4. Public and private water supplies.** A permit may not be
9 granted for an automobile graveyard, junkyard or automobile
10 recycling business that handles junk, scrap metal, vehicles or
11 other solid waste within 300 feet of a well that serves as a
12 public or private water supply. This prohibition does not
13 include a private well that serves only the automobile graveyard,
14 junkyard, automobile recycling business or the owner's or
15 operator's abutting residence. This prohibition does not apply
16 to wells installed after an automobile graveyard, junkyard or
17 automobile recycling business has already received a permit under
18 section 3753.

19 Automobile graveyards, junkyards and automobile recycling
20 businesses operating under the terms of permits issued prior to
21 the effective date of this subsection and handling junk, scrap
22 metal, vehicles or other solid waste within 300 feet of wells
23 that serve as public or private water supplies may continue to
24 operate in those locations under the terms of those permits.
25 Municipal officers or county commissioners may renew a permit
26 allowing the continued handling of junk, scrap metal, vehicles or
27 other solid waste within 300 feet of a well serving as a public
28 or private water supply as long as no further encroachment toward
29 the well occurs ~~and there is no evidence of contamination of the~~
30 well. The municipal officers or county commissioners may not
31 renew a permit if there is substantial, credible evidence that
32 the permitted activities have caused contamination of the well.

34 **Sec. 4. 30-A MRSA §3754-A, sub-§5, ¶D**, as enacted by PL 2003,
35 c. 312, §9, is amended to read:

36 D. Junkyard and automobile graveyard owners must
37 demonstrate at the time of licensing that the facility or
38 facilities for which they seek permits are, or are part of,
39 a viable business entity and the facility or facilities are
40 actively engaged in the business of salvaging, recycling,
41 dismantling, processing, repairing or rebuilding junk or
42 vehicles for the purpose of sale, or trade ~~or personal use.~~

44 **Sec. 5. 30-A MRSA §3754-A, sub-§10** is enacted to read:

46 **10. Standard for permit.** The municipal officers or county
47 commissioners may issue a permit to an automobile graveyard,
48 automobile recycling business or junkyard if that automobile
49 recycling business or junkyard is a viable business entity and
50 the facility or facilities are actively engaged in the business of

graveyard, automobile recycling business or junkyard meets the operating standards set forth in subsection 5.

Sec. 6. 30-A MRSA §3754-A, as amended by PL 2003, c. 312, §12, is further amended by adding a new last paragraph to read:

For purposes of revocation or suspension of a permit pursuant to section 3758-A, subsection 5, each of the standards set forth in this section is a condition of a permit.

Sec. 7. 30-A MRSA §3756, sub-§1, as amended by PL 2003, c. 312, §12, is further amended to read:

1. Graveyard or junkyard. Fifty dollars for each application for an automobile graveyard or junkyard plus the cost of posting and publishing the notice under section 3754;

Sec. 8. 30-A MRSA §3758-A, sub-§5, as enacted by PL 2003, c. 312, §14, is amended to read:

5. Revocation or suspension of permit. Violation of any condition, restriction or limitation inserted in a permit by the municipal officers or county commissioners is cause for revocation or suspension of the permit by the same authority that issued the permit. A permit may not be revoked or suspended without a hearing and notice to the owner or the operator of the automobile graveyard, automobile recycling business or junkyard. Notice of hearing must be sent to the owner or operator by registered mail at least 7 but not more than 14 days before the hearing. The notice must state the time and the place of hearing and contain a statement describing the alleged violation of any conditions, restrictions or limitations inserted in the permit.

The municipal officers or county commissioners shall provide written or electronic notice of the hearing to the automobile dealer licensing section of the Department of the Secretary of State, Bureau of Motor Vehicles at least 7 days before the hearing.

SUMMARY

This bill clarifies municipally administered junkyard, automobile graveyard and automobile recycling business law under the Maine Revised Statutes, Title 30-A, chapter 183, subchapter 1 in follow-up to the comprehensive changes enacted by Public Law 2003, chapter 312.